

# Chapter 2

## Finances/Recordkeeping

Candidates and committees must use a bank account to deposit monetary contributions received, and must keep detailed records in order to fully comply with the reporting requirements of the Act. Committees also may be audited. The recordkeeping requirements discussed in this chapter apply to candidate election committees, officeholder committees, legal defense committees, and recall committees.

However, candidates who do not raise contributions from others and spend less than \$1,000 of their own personal funds do not need to open a campaign bank account and need not have a campaign treasurer.

### Campaign Bank Account

Candidates who anticipate soliciting or receiving contributions from others, or who anticipate spending \$1,000 or more of their personal funds in connection with their election, must open a campaign bank account.

A candidate's personal funds used to pay the filing fee and/or the ballot statement fee do not count toward the \$1,000 threshold.

### Establishing the Account

The campaign bank account may be established at a bank, a state or federal savings and loan association, or a state or federal credit union. The financial institution must be located in California.

Candidates running for one office while holding another must establish a separate campaign bank account for each office – but not more than one bank account per office per election.

State candidates may establish a separate bank account and committee for the primary

and general elections, but are not required to do so. However, a separate bank account and committee are required each time a candidate runs for reelection or for a different elective state office. State candidates may not redesignate a campaign bank account for a different election, even if it is for the same office. (See Chapter 1.)



**Campaign contributions may not be commingled with any individual's personal funds. All contributions must be deposited in, and expenditures must be made from, the campaign bank account. Except as noted below, candidates must first deposit personal funds to be used for the campaign in the account before making campaign expenditures, even if the candidate does not expect to be reimbursed.**

Exceptions:

- Candidates may use their personal funds to pay a filing fee or a ballot statement fee without first depositing the funds into the campaign account.
- An officeholder may use personal funds to pay officeholder expenses. (See Chapter 7 for reimbursement requirements.)
- A candidate may contract with a vendor or collecting agent to collect contributions prior to promptly transferring the funds to the candidate's campaign bank account without violating the requirement that the candidate have no more than one bank account. Fees deducted by the vendor are considered expenditures from the campaign bank account at the time they are deducted.

### Investments

Campaign funds may be transferred from a campaign bank account to certificates of

deposit, interest-bearing savings accounts, money market funds, or similar accounts. The funds must come from a campaign bank account designated for a specific office and be deposited in investment accounts established only for that office. The funds must be redeposited into the same campaign bank account before being used for campaign expenses.

### **Credit Accounts**

One or more credit accounts may be established for each campaign bank account. A single credit card, however, may not be designated for more than one campaign bank account. In addition, payment of charges on a credit account must be made only from the appropriate campaign bank account.

OR

In lieu of establishing a new credit account, a candidate may designate an existing personal credit card with a zero balance as the campaign bank account credit card by listing the card number and date of designation in the campaign records. The candidate must ensure that no personal expenses are charged to this account until after the election and after all campaign charges have been paid with funds from the campaign bank account. Once all campaign expenses charged to the account have been paid, the candidate may resume using the card for personal purposes.

### **Petty Cash**

Candidates may use campaign funds to establish a petty cash fund at each campaign office. Keep in mind the following conditions relating to the petty cash fund:

- A petty cash fund may not hold more than \$100 at any time.
- No expenditure of \$100 or more may be made from the fund.
- The fund may be used only for expenses associated with the election to the specific office or for the expenses of holding the

office for which the petty cash fund was established.

- Once the funds are spent, payments made from petty cash must be reported as expenditures.

### **Expenditures from Multiple Accounts**

A candidate who has more than one campaign bank account must make all expenditures in connection with an election from the campaign bank account established for that election, including:

- Campaign strategic planning and fundraising expenses;
- Services and actual expenses of outside political consultants, the campaign treasurer, other staff, pollsters, and other persons who provide services directly in connection with the election;
- Voter registration and get-out-the-vote drives; and
- Payments for mailings, political advertising, yard signs, opinion polls or surveys, and other communications if the payments:
  - 1) Are for a communication that makes reference to the candidate's future election or status as a candidate; or
  - 2) Are made three months prior to an election for which the candidate has filed a Candidate Intention Statement (Form 501), a declaration of candidacy, or nomination papers with an election official, or any other documents necessary to be listed on the ballot for an elective office.

### **Officeholder Committees, Legal Defense Committees, and Recall Elections**

State candidates and officeholders may establish separate accounts and committees to raise funds for officeholder expenses, legal defense, and opposition to the officeholder's recall. (See Chapter 1.) All of

these committees are subject to the recordkeeping requirements discussed in this chapter.

In addition, legal defense committees must keep separate detailed accounts, records, bills, and receipts for each legal dispute.

### Recordkeeping

Accurate and organized records must be kept of all contributions received and expenditures made. All individuals who handle receipts and make expenditures must be aware of and practice the recordkeeping procedures required by the Political Reform Act and FPPC regulations that are outlined in this manual. While others may be involved, the candidate and treasurer, as listed on the committee's Statement of Organization (Form 410), remain legally responsible for the accuracy of the records.

### Record Retention

Candidates and committees must keep all records, including original source documentation, for a period of four years from the date the campaign statement relating to the records was filed.

**Example** *Sharon Goldstein, a State Assemblymember, filed her first campaign statement on January 31, 2007. The records associated with completing that statement, such as receipts and information on contributors, must be retained until January 31, 2011.*

Exceptions:

- Elected state officers serving a four-year term must keep for five years records associated with the campaign statements they filed during the first year following their election.
- The electronic filing declaration required to be filed with Form E-530 must be kept for

five years following the date the report is filed. (See Chapter 8.)

### Records of Receipts

Two types of records are required for receipts: a **daily record**, showing how much money was received on any given day; and a **contributor record**, with detailed information on each contributor of \$25 or more. The daily record requirement may be met simply with bank statements, copies of checks received, or other documentation that provides the required information listed below.

### Receipts Under \$25

A daily lump sum total must be kept for contributions under \$25 and miscellaneous receipts under \$25.

### Contributor Record

#### Contributions: \$25 to \$99.99

For each monetary or nonmonetary contribution or loan of \$25 or more, the date received, amount, type of contribution, and full name and address, including zip code, of the contributor must be documented. In addition, the total amount received from that contributor over the course of the current calendar year (the "cumulative amount") must be recorded.

### Date Received

A monetary contribution is received on the date that the candidate or committee, or an agent of the candidate or committee, obtains possession or control of the cash, check, or other form of contribution, not the date it is deposited in the bank account. Contributions received by electronic methods such as wire transfer, credit card or debit account transactions are also received on the date the candidate or committee obtains possession or control of the funds. The following list provides examples:

- A contributor makes a contribution over the telephone. The contribution is “received” by the committee on the date the contributor gives his or her debit/credit account information to the committee.
- A contributor makes a contribution via the Internet and the committee reviews the online transaction before the contribution is processed. The contribution is “received” by the committee on the date the committee receives the payment information.
- A contributor makes a contribution via the Internet and the contribution is made by direct deposit without review and before transaction reports are produced. The contribution is “received” by the committee when the committee has possession of the funds.
- A contributor agrees to make contributions via “installment” payments by authorizing the committee to periodically charge his or her credit card or withdraw funds from his or her account. The contribution is “received” when the committee, or an agent of the committee, obtains possession or control of the funds for each installment payment. The contribution reported is only the amount of each installment payment when received. Installment payments scheduled to take place in the future, but not yet received, are not reportable.

### **Contributions: \$100 or More (Occupation and Employer Information)**

If contributions totaling \$100 or more are received from an individual, in addition to the above information, the contributor’s occupation and employer are recorded.

If the contributor is self-employed, that fact also must be noted along with the name of his or her business. Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

**A contribution of \$100 or more must be returned if the contributor’s name, address, and, if the contributor is an individual, his or her occupation and employer are not in the committee’s records within 60 days from receipt of the contribution.** If the contribution cannot be returned to the contributor, it must be paid to the Secretary of State within 60 days of receipt for deposit in the state’s general fund. If the contribution is returned to the contributor by check and the check is not cashed by the contributor within 90 days, the contribution must be paid to the Secretary of State within the following 30 days for deposit in the state’s general fund.

Contributions may be deposited in the committee’s bank account pending receipt of the information, in which case they must be reported on the next campaign statement required to be filed (including late contribution reports and the \$5,000 and \$1,000 election cycle reports). The Recipient Committee Campaign Statement (Form 460) must be amended within 70 days from its closing date to disclose the missing contributor information unless the contribution is returned to the donor. Late contribution reports and the electronic \$5,000 and \$1,000 reports need not be amended. The committee also must record the date the contributor information is received, if that date is different than the date the contribution is received.

**Example** *Stanley Hughes, a State Senate candidate, received a contribution of \$100 from Martha Andersen on June 1. The only information he had was her name and address as listed on her check. On his semi-annual statement covering the reporting period through June 30, he reported receiving \$100 from Martha, listed her name and address, and indicated that he would amend his statement when he received her occupation and employer information. By July 31 of that same year,*

*even after writing to Martha, Stanley still did not have Martha's occupation and employer. Stanley must return \$100 to Martha.*

### **Intermediaries**

For contributions of \$25 or more made through an intermediary (see Chapter 3) records of the above information for **both** the intermediary and the contributor are required.

### **Nonmonetary Contributions**

If the contribution is nonmonetary and worth \$25 or more, a description and the fair market value of the contribution must be recorded. (See "Valuing" in Chapter 3.)

### **Loans**

If the contribution is a loan of \$25 or more, the following information for the lender must be recorded:

- Interest rate of the loan, if any;
- Due date of the loan, if any; and
- Name and address of any guarantor and the amount guaranteed. The occupation and employer of any individual who guarantees a loan of \$100 or more must also be recorded.

If a candidate receives a loan from a commercial lending institution for his or her campaign, both the institution and the candidate are reported as the source of the loan.

State candidates who make loans to their own campaign committee from personal funds may not charge the committee interest. In addition, state candidates may not have personal loans, including loans from a commercial lending institution, outstanding to their campaigns exceeding \$100,000 at any one time. (See Chapter 1.)

### **Documentation**

The committee must keep copies of all documents reflecting deposits made and all records reflecting campaign bank account balances, such as bank statements, check registers, and passbooks.

The following documents produced or received by the committee also must be kept for receipts of \$25 or more: copies of contributor checks; contributor cards; letters of transmittals; notices or writings received from contributors; memoranda or other records that describe the method used to determine the fair market value of donated goods or services (nonmonetary contributions); and loan agreements or other documents that reflect indebtedness. In addition, documentation for electronic transactions must include information collected when debiting the contributor's account, such as itemized transaction reports (including the credit card confirmation number), debit/credit account transaction records, and credit card receipts or vouchers. Documentation of contributions received over the Internet must include a record of the transaction created and transmitted by the cardholder including the cardholder's name and address and card number.

For contributions or other receipts of \$100 or more, copies of any letters or other communications sent by the committee to obtain the documents listed above must be kept.

### **Expenditures**

#### **Expenditures: Under \$25**

A daily lump sum total of all expenditures under \$25 must be kept.

#### **Expenditures: \$25 or More**

For expenditures of \$25 or more to a single payee, or a series of payments for a single



product or service that total \$25 or more, the following must be recorded:


- Full name and street address, including zip code, of payee;
- Expenditure amount;
- Date the expenditure was made or, for accrued expenses, the date the goods or services were received; and
- Description of the goods or services received.

### **Contributions to Other Candidates or Committees and Independent Expenditures**

For expenditures that are contributions to another officeholder, candidate, or committee, or independent expenditures (see Chapter 4) to support or oppose a ballot measure, the amount of the expenditure and also the cumulative amount paid in that calendar year in connection with the officeholder, candidate, committee, or ballot measure must be recorded.

For all such expenditures of \$25 or more, the following information is required:

- Date the contribution or independent expenditure was made;
- Whether the expenditure is an independent expenditure;
- Name of the officeholder or candidate and the office and district he or she holds or for which he or she seeks nomination or election, or the number or letter of the measure and the jurisdiction in which the measure is to be voted on; and
- Cumulative amount spent on behalf of the candidate, measure, or committee.

 **Candidates may not use campaign funds to make independent expenditures to support or oppose other state or local candidates.**

### **Loans Made to Others**

The following additional information must be kept for loans made by the committee: interest rate, if any; due date, if any; and full name and street address of anyone guaranteeing the loan or who is liable directly, indirectly, or contingently for the loan. (For restrictions on loans to others, see Chapter 10.)

### **Transfers to Another Controlled Committee of the Candidate**

A candidate's controlled committee that transfers funds using the LIFO or FIFO method must keep records of the specific contributors attributed to each transfer. In the event that a transferring committee is no longer required to keep such documents, the receiving committee may use copies of the transferring committee's campaign statements or other available records that confirm the identity of the original contributors. (See Chapter 1.)

### **Expenditure Limits**

Candidates who have accepted the voluntary expenditure ceiling must maintain records identifying how campaign expenditures that count toward the ceiling were allocated. (See Chapter 1 for information on the voluntary expenditure ceiling and to determine which expenditures count toward the ceiling.)

### **Documentation**

All bank and credit card records for expenditures must be kept.

For any expenditure of \$25 or more made by the committee or by any agent on behalf of the committee, canceled checks, bills, invoices, or statements; receipts; credit card charge slips, vouchers; contracts; loan agreements; and other documents produced or received by the committee reflecting additional obligations also must be kept by the committee. Copies of canceled checks can be retained if the copies contain a legible

image of the front and back of the canceled check and the copies are obtained from the financial institution.

If no receipt, voucher, or invoice is available, a voucher should be written as soon as possible with the date and amount of the payment, the name of the payee, and a description of the goods or services received. A voucher is not required for payments under \$25.

### Notices to Major Donors, Mass Mailings, and Telephone Calls

A copy or a record of all \$5,000 “major donor” notices (see Chapter 3) and a copy of any mass mailings (see Chapter 4) sent by the committee must be kept. For certain telephone calls made to 500 or more voters and paid for by the committee (see Chapter 4), a script of the call or a copy of the recorded phone message also must be kept.

### Audits

The Act authorizes audits of committees. Mandatory audits of candidates, their controlled committees, and primarily formed committees that support or oppose candidates are conducted by the Franchise Tax Board. Committees established for officeholder expenses and legal defense are also subject to mandatory audits under the Act if the controlling candidate or officeholder’s election committee is selected for audit.

Mandatory audits for the office of State Controller and members of the Board of Equalization are conducted by the Fair Political Practices Commission. Discretionary audits may be conducted by the Fair Political Practices Commission of any committee.

### Statewide Candidates

All candidates for statewide office who raise or spend \$25,000 or more in a primary or

general election will be audited. Ten percent of such candidates who raise or spend less than \$25,000 will be subject to audit by random selection.

### Supreme Court, Court of Appeal, Member of the Board of Equalization

Candidates for Supreme Court, Court of Appeal, or Board of Equalization who raise or spend \$25,000 or more in a primary or general election will be audited.

### State Legislature

Candidates for the State Legislature who raise or spend \$15,000 or more in a primary or general election will be subject to audit by random selection of 25 percent of the Senate districts, and 25 percent of the Assembly districts.

All state legislative candidates who raise or spend \$15,000 or more in connection with a special election or a special runoff election will be audited.

### Treasurer Duties

Every committee must have a treasurer. There are no restrictions on who may be treasurer. In fact, the candidate controlling the committee may be the treasurer. **The committee may not accept contributions or make expenditures before a treasurer is appointed or while the treasurer’s post is vacant, even if there is an assistant treasurer (see below).** If the committee treasurer is unavailable to carry out his or her duties for an extended time, a new treasurer should be designated and the committee’s Statement of Organization (Form 410) amended.

Treasurers or assistant treasurers must sign and verify all reports and statements filed. The verification indicates under penalty of perjury that:

- The signer has used all reasonable diligence in preparing the statement; and

- To the best of his or her knowledge, the statement is both true and complete.

The signer is legally responsible for the accuracy and completeness of the document, even if it is prepared by a third party, including a professional accountant. An unsigned statement is considered “not filed” and subject to late fines.

### Treasurer

**A treasurer is required to:** Establish a system of recordkeeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately in compliance with the Act’s recordkeeping and disclosure requirements. Following the recordkeeping guidelines in this manual ordinarily constitutes compliance with this requirement. In addition, the treasurer is required to:

- Maintain campaign records personally or monitor records kept by others.
- Take steps to ensure all of the Act’s requirements are met regarding receipt, expenditure, and reporting of campaign funds.
- Prepare campaign statements personally or carefully review campaign and underlying records prepared by others.
- Correct any inaccuracies or omissions, and inquire about any information that would cause a reasonable person to question the accuracy of the campaign statements.
- Sign campaign statements under penalty of perjury. The treasurer is legally responsible for the accuracy and completeness of campaign statements, even if they are prepared by a third party, such as a professional accountant. The treasurer must establish that campaign statements are properly filed. Because the treasurer may be held personally liable for violations of the Act, **no person should assume the position of treasurer as a mere figurehead.**

- Check and, if necessary, correct any information contained on a campaign statement which a reasonable, prudent person would question. Among the circumstances which might give rise to an inquiry regarding a contribution are: the size of the contribution; the reported source; the likelihood of that source making a contribution of that size; the circumstances surrounding receipt; and the manner in which the contribution is recorded in campaign records.

### Assistant Treasurer

An assistant treasurer may be designated on the Statement of Organization (Form 410) in the event that the treasurer is unavailable to sign a report when it is due. The assistant treasurer is required, like the treasurer, to use reasonable diligence in preparing and reviewing any campaign statements that he or she signs, and must certify to that effect under penalty of perjury. For statements signed by the assistant treasurer, both the treasurer and the assistant treasurer are liable for any violations pertaining to that report.

There are no restrictions on who may be an assistant treasurer, although he or she should know the reporting obligations, restrictions, and prohibitions provided under the law. For a controlled committee, the candidate may be designated as assistant treasurer. If this is the case, and the treasurer is unavailable to sign a campaign report when it is due, the candidate will sign both as candidate and assistant treasurer.

### Candidate Duties

**A candidate is required to:**

- Make sure that the treasurer is exercising all reasonable diligence in the performance of his or her duties. The candidate must establish that campaign statements are properly filed.
- Take whatever steps are necessary to replace the treasurer or raise the



treasurer's performance to required standards if the candidate knows or has reason to know that the treasurer is not exercising all reasonable diligence in the performance of his or her duties.

- Review with care the campaign statements prepared for filing by the committee.
- Correct any inaccuracies and omissions in campaign statements of which the candidate is aware and check and correct any information on campaign statements which a person of reasonable prudence would question based on all of the surrounding circumstances.
- Perform with due care any other tasks assumed in connection with the raising, spending, or recording of campaign funds insofar as such tasks relate to the accuracy of information entered on campaign statements.

### Answering Your Questions

- Q. *If, in the early days of the campaign, the candidate is not able to find someone to serve as the campaign treasurer, may the candidate serve in that capacity until another person is found?*
- A. Yes. In fact, a separate treasurer is never required; the candidate may serve as treasurer throughout the campaign.
- Q. *Are there any specific accounting qualifications for someone to be able to serve as treasurer, or any conditions which would disqualify someone from being able to serve as treasurer?*
- A. No.
- Q. *What should be done if the treasurer and assistant treasurer, or the candidate, are not able to sign before the deadline?*
- A. In order to ensure that the statement is filed on time, you may submit the filing if it is signed by one of the following: the

candidate, treasurer, or assistant treasurer. If the candidate's signature is missing, submit an amendment to provide his or her signature as soon as possible. Likewise, if both the treasurer and assistant treasurer are unavailable, submit an amendment to provide the required signature as soon as possible.

- Q. *Are committee records and source documentation required to be kept on paper, or may the committee use an electronic recordkeeping system?*
- A. Electronic records are permitted, provided that all of the required information is collected and recorded in a timely and uniform manner that ensures the accuracy and reliability of the information. Committees are responsible for ensuring that electronic records can be read and/or printed for auditing purposes during the applicable retention period.
- Q. *Are form letters thanking the committee for contributions it has made required to be retained for recordkeeping purposes?*
- A. Form letters containing no information necessary to complete or verify the committee's campaign statements are not required to be retained.

### Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

### Government Code Sections

82015	<i>Contribution.</i>
82018	<i>Cumulative Amount.</i>
82025	<i>Expenditure.</i>
82044	<i>Payment.</i>
82047.5	<i>Primarily Formed Committee.</i>
84100	<i>Treasurer.</i>
84104	<i>Recordkeeping.</i>
84300	<i>Cash and In-Kind Contributions; Cash Expenditures.</i>

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84302	<i>Contributions by Intermediary or Agent.</i>	18523	<i>Nondesignated Contributions or Loans.</i>
84307	<i>Commingling with Personal Funds.</i>	18524	<i>Investment and Expenditure of Candidates' Campaign Funds.</i>
84310	<i>Identification Requirements for Telephone Calls.</i>	18525	<i>Incumbent Candidates' Election Expenses and Officeholder Expenses.</i>
85201	<i>Campaign Bank Account.</i>	18530.4	<i>Legal Defense Funds.</i>
85304	<i>Legal Defense Fund.</i>	18531.5	<i>Recall Elections.</i>
85315	<i>Elected State Officer Recall Committees.</i>	18531.62	<i>Elected State Officeholder Bank Accounts.</i>
85318	<i>Contributions Received for Primary and General Elections.</i>	18534	<i>Required Committee Bank Accounts.</i>
85501	<i>Prohibition on Independent Expenditures by Candidate Controlled Committees.</i>	18570	<i>Return of Contributions with Insufficient Donor Information.</i>
85700	<i>Donor Information Requirements; Return of Contributions.</i>	18994	<i>Auditing and Investigations.</i>
89511.5	<i>Use of Personal Funds for Incumbent Elected Officers.</i>	18995	<i>Standards and Guidelines for Auditing Statements and Reports.</i>
90000	<i>Responsibility.</i>		
90001	<i>Mandatory Audits and Investigations.</i>		
90002	<i>Audits and Investigations; Time.</i>		
90003	<i>Discretionary Audits.</i>		
90006	<i>Audit and Investigation by Commission.</i>		
90007	<i>Auditing Guidelines and Standards.</i>		

### **Title 2 Regulations**

18401	<i>Required Recordkeeping for Chapter 4.</i>
18421.1	<i>Disclosure of the Making and Receipt of Contributions.</i>
18421.2	<i>Street Address.</i>
18421.3	<i>Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.</i>
18426.1	<i>Assistant Treasurer.</i>
18427	<i>Duties of Treasurers and Candidates with Respect to Campaign Statements.</i>
18432.5	<i>Intermediary.</i>
18440	<i>Telephone Advocacy.</i>
18521	<i>Establishment of Separate Controlled Committee for Each Campaign Account.</i>